

ESTTA Tracking number: **ESTTA655592**

Filing date: **02/12/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91214649
Party	Plaintiff Noodle Time, Inc.
Correspondence Address	JANET C MOREIRA MAVEN INTELLECTUAL PROPERTY 5801 BISCAYNE BLVD MIAMI, FL 33137 UNITED STATES trademarks@maveniplaw.com, janet@maveniplaw.com, stephanie@maveniplaw.com
Submission	Opposition/Response to Motion
Filer's Name	Stephanie C. Alvarez
Filer's e-mail	stephanie@maveniplaw.com
Signature	/Stephanie C. Alvarez/
Date	02/12/2015
Attachments	Opposition to Motion to Suspend Based on Dismissal of Civil Action.pdf(94103 bytes ) Binder1.pdf(136297 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

**NOODLE TIME, INC.,**  
Opposer,

**Opposition No.: 91214649**

v.

Mark: **BENNY HUNNA**

Serial No.: 85/920,599

**BENNY HODGE,**  
Applicant.

Filing date: May 1, 2013

Publication Date: October 8, 2013

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**OPPOSITION TO MOTION TO SUSPEND PROCEEDINGS BASED ON DISMISSAL  
OF PENDING CIVIL ACTION**

Applicant filed a Motion to Suspend Proceeding for Civil Action (“Motion to Suspend”) on January 25, 2015 based on the then pending civil action filed against Benny Hodge by the exclusive licensee and parent company of Opposer, Benihana National Corp. (“BNC”) in the United States District Court for the Northern District of Mississippi (“Civil Action”). On January 27, 2015, BNC filed a Notice of Voluntary Dismissal Without Prejudice of the Complaint in the Civil Action and the Civil Action was terminated on January 28, 2015. See Exhibit A (copy of docket downloaded from [www.pacer.gov](http://www.pacer.gov) dated 2/12/2015 showing Civil Action as CLOSED).

Since there is no longer a pending civil action against the Applicant, the issue raised in his Motion to Suspend is thereby rendered moot. Proceedings in this matter should continue without delay.

Dated: February 12, 2015

/s/ Stephanie C. Alvarez /  
Stephanie C. Alvarez, Esq.  
**MAVEN Intellectual Property**

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Counsel for Opposer Noodle Time, Inc.

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

The undersigned hereby certifies that this document is being transmitted electronically through ESTTA pursuant to 37 C.F.R. § 2.195(a) on **February 12, 2015**

/s/Stephanie C. Alvarez /  
Stephanie C. Alvarez

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and accurate copy of the foregoing document has been served on all counsel and/or parties of record via electronic mail transmission on February 12, 2015 as follows:

**By Email:** [bennyhodge25@yahoo.com](mailto:bennyhodge25@yahoo.com)  
Benny Hodge  
122 Country Club Drive  
Greenwood, MS 38930

/s/Stephanie C. Alvarez/  
Stephanie C. Alvarez

*Exhibit A*

*Docket of Civil Action*

CLOSED,JURY

**U.S. District Court  
Northern District of Mississippi (Greenville Division)  
CIVIL DOCKET FOR CASE #: 4:14-cv-00178-SA-JMV**

Benihana National Corp. v. Hodge  
Assigned to: District Judge Sharion Aycock  
Referred to: Magistrate Judge Jane M. Virden  
Cause: 15:1114 Trademark Infringement

Date Filed: 12/22/2014  
Date Terminated: 01/28/2015  
Jury Demand: Plaintiff  
Nature of Suit: 840 Trademark  
Jurisdiction: Federal Question

**Plaintiff**

**Benihana National Corp.**  
*a Delaware corporation*

represented by **Brett Andrew Schubert**  
BRETT A. SCHUBERT, ATTORNEY  
AT LAW  
International Place, Tower II  
6410 Poplar Avenue, Suite 1000  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Shea S. Wellford**  
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901-522-9000  
Email: sheawellford@martintate.com  
**LEAD ATTORNEY**  
**PRO HAC VICE**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**Benny Hodge**  
*an individual  
doing business as  
Benny Hunna*

Date Filed	#	Docket Text
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12/22/2014	<a href="#">1</a>	COMPLAINT, Jury Demand, Filing fee \$ 400, receipt number 0537-1177614, filed by Benihana National Corp.. (Attachments: # <a href="#">1</a> Exhibit 1, # <a href="#">2</a> Exhibit 2, # <a href="#">3</a> Exhibit 3, # <a href="#">4</a> Civil Cover Sheet) (jtm)
12/22/2014	<a href="#">2</a>	Summons Issued as to Benny Hodge. Forwarded to Plaintiff's counsel via USPS for service. (jtm)
12/22/2014		NOTICE OF ASSIGNMENT. Case assigned to Judge Sharion Aycock and Magistrate Judge Jane M. Virden. (jtm)
12/22/2014	<a href="#">3</a>	Report on the Filing of an Action Regarding a Trademark (jtm)
12/23/2014	<a href="#">4</a>	MOTION to Appear Pro Hac Vice ; Attorney Shea Sisk Wellford,(Paid \$100 PHV fee; receipt number 0537-1178082) by Benihana National Corp.. (Attachments: # <a href="#">1</a> Exhibit Certificate of Good Standing) (Schubert, Brett)
12/24/2014	<a href="#">5</a>	ORDER granting <a href="#">4</a> Motion to Appear Pro Hac Vice; Attorney Shea Sisk Wellford is hereby admitted as counsel pro hac vice on behalf of the above named Plaintiff. Signed by Magistrate Judge Jane M. Virden on 12/24/2014. (lec)
01/27/2015	<a href="#">6</a>	NOTICE of Voluntary Dismissal by Brett Andrew Schubert on behalf of Benihana National Corp. (Schubert, Brett)

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
02/12/2015 12:01:21			
<b>PACER Login:</b>	mi3548:4074520:0	<b>Client Code:</b>	Benihana
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	4:14-cv-00178-SA-JMV
<b>Billable Pages:</b>	2	<b>Cost:</b>	0.20